



H.R. 1294 – Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2006

Floor Situation

H.R. 1294 is being considered on the floor under a closed rule. The Rule:

- Provides one hour of general debate equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Natural Resources.
- Waives all points of order against consideration of the bill except those arising under clauses 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Provides that the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill is considered as adopted, and self enacts a manager's amendment. (*See Amendments Section below for details*)
- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designed by the Speaker.
- Provides one motion to recommit with instructions.

This legislation was introduced by Representative James Moran (D-VA) on March 1, 2007, and was reported by the House Committee on Natural Resources, as amended, by voice vote, on March 25, 2007.

H.R. 1294 is expected to be considered on the floor of the House on May 8, 2007.

**Note: Similar legislation was introduced in the 107th, 108th, and 109th Congresses, but was not considered in the House of Representatives.*

Summary

H.R. 1294:

Federal Recognition

- Extends Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe.
- Requires that all laws and regulations of the United States that generally apply to Indians or nations, Indian tribes, or bands of Indians shall apply to the Tribes and tribal members mentioned above.
- Requires that on and after the date of enactment of this Act, the aforementioned Tribes and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe; or the location of the residence of any tribal member on or near any Indian reservation.

Governing Body

- The governing body of each Tribe shall be the governing body of each individual Tribe in place as of the date of enactment of this Act; or any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

Reservations

- Permits the tribes to transfer the lands within their reservation to the Department of the Interior to be taken into a trust for the benefit of the Tribes, should the Tribes choose to do so within the next 25 years after the date of enactment of this legislation.

**Note: The Manager's Amendment strikes this provision in favor of a system whereby the Secretary of the Interior may determine whether to transfer tribal lands into a trust. The amendment specifies that the Secretary has 3 years to decide once a tribe submits a request for lands to be transferred.*

Gaming

- Prohibits gaming on tribal lands or lands taken into Federal trust for the benefit of the Tribes, and requires that any agreement for class III gaming, (which generally includes slot machines, card games like blackjack, and "casino-style gaming"), shall not be valid unless approved or ratified by the Virginia General Assembly.

**Note: The Manager's Amendment specifies that the civil and criminal laws of the State of Virginia shall apply to tribal lands.*

***Note: H.R. 1294 explicitly states that no provisions of the bill expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribes or members of the Tribes.*

Amendments

(Amendment summary below appears as it was printed by the Rules Committee)

Manager's Amendment, Rep. Nick Rahall (D-WV) Two amendments sponsored by Rep. Rahall are being considered en bloc and they "amend six sections of the bill applicable to the individual tribes to make the transfer of any land (within specified Virginia counties) into trust status subject to public process under the Department of Interior (who must make a final decision within three years). They also amend each of the six titles of the bill applicable to the individual tribes to specify that the civil and criminal laws of the State of Virginia shall apply to the tribal lands." Under the amendment, the Secretary is authorized to accept on behalf of the tribe any civil or criminal jurisdiction, but only if it is determined that the tribe is capable of enforcing the areas covered under any newly proposed jurisdiction.

Background

The Department of the Interior (DOI), Bureau of Indian Affairs (BIA) has the responsibility of the administration and management of 55.7 million acres of land held in trust by the United States for American Indians, Indian tribes, and Alaska Natives. There are currently 561 federally recognized tribal governments in the United States. The BIA is responsible for developing forestlands, leasing assets on these lands, directing agricultural programs, protecting water and land rights, developing and maintaining infrastructure, and economic development. In addition, the BIA provides education services to approximately 48,000 American Indian students.

The BIA has a process by which a group can establish itself as an Indian tribe and thereby become eligible for all the services and benefits accorded to Indian tribes under federal law. The process consists of successive steps of verifying the historical existence of the Indian tribe and its members with documented evidence. There is not a defined timeline for how long consideration for federal recognition may take.

H.R. 1294 seeks to bypass the BIA recognition process by providing federal recognition of the 6 tribes by means of new legislation.

The Tribes

Chickahominy Indian Tribe: In 1607, the Chickahominy Indian Tribe was 1 of about 30 tribes that received English settlers on shore when they arrived in America. In 1614, the Chickahominy Indian Tribe entered into a treaty the Governor of the Jamestown Colony, which allowed the Tribe to continue to practice its own tribal governance. In 1702, the Chickahominy were forced from their reservation, which caused the loss of a land base. In 1974, the Chickahominy Indian Tribe bought land and built a tribal center using monthly pledges from tribal members to finance the transactions. In 1983, the Chickahominy Indian Tribe was granted recognition as an Indian tribe by the Commonwealth of Virginia, along with 5 other Indian tribes, including a separate recognition of the *Chickahominy Indian Tribe – Eastern Division*.

Upper Mattaponi Indian Tribe: In 1683, after a Mattaponi town was attacked by Seneca Indians, the Mattaponi Indians took refuge with the Chickahominy Indians, and the history of the 2 groups was intertwined for many years thereafter. In 1695, the Chickahominy and Mattaponi Indians were assigned a reservation by the Virginia Colony. In 1983, the Upper Mattaponi Indians applied for and won State recognition as an Indian tribe.

Rappahannock Indian Tribe: During the initial months after Virginia was settled, Captain John Smith encountered the Rappahannock Indians and once, during Smith's exploration of the Chesapeake Bay (July to September 1608), Smith mediated a dispute and facilitated a peaceful truce between the Rappahannock and the Moraughtacund Indians. In 1980, the Rappahannocks received funding through the Administration for Native Americans of the Department of Health and Human Services to develop an economic program for the Tribe. In 1983, the Rappahannocks received State recognition as an Indian tribe.

Monacan Indian Tribe: In 1677, the Monacan Tribe signed the Treaty of Middle Plantation between Charles II of England and 12 Indian 'Kings and Chief Men.' The Mattaponi-Pamunkey-Monacan Consortium, established in 1981, has since been organized as a nonprofit corporation that serves as a vehicle to obtain funds for those Indian tribes from the Department of Labor under Native American programs. In 1989, the Monacan Tribe was recognized by the State of Virginia. In 1993, the Monacan Tribe received tax-exempt status as a nonprofit corporation from the Internal Revenue Service.

Nansemond Indian Tribe: From 1607 until 1646, the Nansemond Indians lived approximately 30 miles from Jamestown; and were significantly involved in English-Indian affairs. In 1901, Smithsonian anthropologist James Mooney visited the Nansemonds and completed a tribal census that counted 61 households and was later published. In 1922, Nansemonds were given a special Indian school in the segregated school system of Norfolk County. In 1984, the Nansemonds applied for and received State recognition.

Cost

The Congressional Budget Office (CBO) estimates that implementing H.R. 1294 would cost \$40 million over the next 5 years, assuming the appropriation of the necessary funds, but that enacting the legislation would have no affect on direct spending or federal revenues. The largest portion of the cost, \$30 million, is estimated to come from the cost of the newly enrolled tribal members that would begin receiving benefits from the Indian Health Service (HIS).

Staff Contact

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